

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: FACEBOOK, INC., MDL No. 2843
CONSUMER USER PROFILE Case No.
LITIGATION 18-md-02843-VC-JSC

This document relates to:
ALL ACTIONS

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ZOOM DEPOSITION OF FACEBOOK's 30(b)(6)
CORPORATE REPRESENTATIVE - MICHAEL FAHEY
(Reported Remotely via Video & Web Videoconference)
Steamboat Springs, Colorado (Deponent's location)
Thursday, July 21, 2022

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

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PAGES 1 - 113

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1 UNITED STATES DISTRICT COURT
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7 ALL ACTIONS
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15 DEPOSITION OF MICHAEL FAHEY, taken on
16 behalf of the Plaintiffs, with the deponent located
17 in Steamboat Springs, Colorado, commencing at
18 10:19 a.m., Thursday, July 21, 2022, remotely
19 reported via Video & Web videoconference before
20 REBECCA L. ROMANO, a Certified Shorthand Reporter,
21 Certified Court Reporter, Registered Professional
22 Reporter.

23

24

25

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2 (All parties appearing via Web videoconference)

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22 ALSO PRESENT:

23 Francine Bendat, Associate General Counsel,
24 Meta Platforms

25 John Macdonell, Videographer

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1 Steamboat Springs, Colorado; 09:04:04

2 Thursday, July 21, 2022

3 10:19 a.m.

4 -----o0o-----

5
6 THE VIDEOGRAPHER: Okay. We're on the
7 record. It's 10:19 a.m. Mountain Time on
8 July 21st, 2022.

9 This is the deposition of Michael Fahey.

10 We're here in the matter of Facebook Consumer 10:19:39
11 Privacy User Profile Litigation.

12 I'm John Macdonell, the videographer,
13 with Veritext.

14 Before the reporter swears the witness,
15 would counsel please identify themselves, beginning 10:19:51
16 with the noticing attorney, please.

17 MR. GOULD: For the plaintiffs and the
18 proposed class, Benjamin Gould with
19 Keller Rohrback.

20 And with me today is Chris Springer, also 10:20:03
21 of Keller Rohrback.

22 MR. SCHWING: Austin Schwing,
23 Gibson, Dunn & Crutcher for the defendant.

24 I am joined by Cassarah Chu,
25 Kelly Herbert, Shaquille Grant, Rose Ring. 10:20:23

1 Francine Bendat, who is with Meta. 10:20:26

2 Michael McQueeney, Felisha Miles.

3 I also note that there's a video one and
4 a video two showing on our screen. Is -- that's
5 related to the court reporter? 10:20:40

6 THE VIDEOGRAPHER: That -- that's me, the
7 videographer.

8 MR. SCHWING: Okay.

9 THE VIDEOGRAPHER: Just capturing
10 devices, yeah. 10:20:45

11 MR. SCHWING: Okay. Thank you.

12 SPECIAL MASTER GARRIE: And
13 Special Master Garrie here on behalf of the Court.

14 THE COURT REPORTER: At this time, I will
15 ask counsel to agree on the record that there is no
16 objection to this deposition officer administering
17 a binding oath to the deponent via remote
18 videoconference, starting with the noticing
19 attorney, please. 10:20:54

20 MR. GOULD: No objection. 10:21:11

21 MR. SCHWING: No objection.

22 THE COURT REPORTER: Mr. Fahey, If you
23 could raise your right hand for me, please.

24 THE DEPONENT: (Complies.)

25 THE COURT REPORTER: You do solemnly 10:21:14

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1 state, under penalty of perjury, that the testimony 10:21:14
2 you are about to give in this deposition shall be
3 the truth, the whole truth and nothing but the
4 truth?
5 THE DEPONENT: I do. 10:21:14
6
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9
10 10:21:14
11
12
13
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15 10:21:14
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20 10:21:14
21
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23
24
25 //// 10:21:14

1 MICHAEL FAHEY, 10:21:32

2 having been administered an oath, was examined and
3 testified as follows:

4
5 EXAMINATION 10:21:32

6 BY MR. GOULD:

7 Q. Good morning, Mr. Fahey.

8 My name is Benjamin Gould, and I'll be
9 taking your deposition today. Try to get through
10 this as quickly as possible.

11 Just a few ground rules. You know it's
12 important that we not talk over each so we have a
13 clean record. If you don't understand a question,
14 please let me know.

15 I will probably be asking you -- and 10:21:58
16 this -- I told other witnesses this in this case --
17 you know, at times I'll be asking you like what
18 seem like insanely stupid questions.

19 But I don't mean that to like insult your
20 intelligence. This is sort of just what we have to 10:22:14
21 do in the law to -- to -- to establish facts and --
22 and things like that.

23 So I wanted you to be prepared for that
24 just so you don't feel like insulted or surprised,
25 or whatever. 10:22:28

1 I wanted -- now I think we should start 10:22:28

2 with previously marked Exhibit 330.

3 Q. (By Mr. Gould) If you could call that up
4 on your Exhibit Share screen, Mr. Fahey, and go to
5 the very bottom, when you're there, of page 14. 10:22:43

6 Let me know when you're there.

7 A. I'm there.

8 Q. Okay. So topic 9a reads "Video content
9 and information relating to video content,
10 requested or obtained, available to or accessed, 10:23:04
11 interacted with, or shared by users on or via the"
12 platform -- "Facebook Platform, specifically:

13 A. The amount of such content and how the amount of
14 such content has changed or varied over time."

15 You understand that you are testifying on 10:23:24
16 behalf of Facebook about subtopic a, the -- the --
17 the words that are right next to that -- to that
18 little a there, yes?

19 A. Yes, I do.

20 Q. Okay. And is there any portion of that 10:23:37
21 subtopic that is unclear to you?

22 A. No, I don't believe so.

23 Q. Okay. And so you're -- you realize
24 you're testifying on behalf of Facebook, yes?

25 You're not testifying in your individual 10:23:55

1 capacity? 10:23:57

2 A. If by Facebook you mean Meta, yes, I do.

3 Q. Thank you. Thank you for the correction,
4 yes.

5 And do you understand that your testimony 10:24:08

6 is intended here to cover the time period
7 January 1, 2007, to the present, unless we are
8 specifying some other range?

9 A. Yes.

10 Q. Okay. Obviously, that is a long period 10:24:34

11 and a lot of -- has happened to the artist formally
12 known as Facebook, now Meta. So I will try to be
13 as specific in my questioning as I can. If I'm
14 not, I hope you will point out that the -- the time
15 period about which you are talking specifically. 10:24:57

16 So what did you do to prepare for this
17 deposition?

18 A. I spoke with a handful of people on the
19 topic. I reviewed a set of press releases, and I
20 also looked at a set of charts. 10:25:17

21 Q. And were some of the people you spoke
22 with former or current Meta employees?

23 A. I only spoke with current Meta employees.

24 Q. Okay. Would you -- would you mind,
25 because I'm going to -- I'm -- I'm going to slip 10:25:39

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1 otherwise.

10:25:45

2 Would you mind if we just referred to

3 Meta as Facebook for the purposes of this

4 deposition?

5 A. I -- I have no issues with that. The

10:25:52

6 only reason why I clarified is I have a role within

7 the company where my role is actually attached to

8 what is now called Facebook, and I did not want to

9 get that confused.

10 Q. Do you mean what is now called Meta?

10:26:06

11 A. Yeah. So there's the company which is

12 Meta --

13 Q. Got it.

14 A. -- and then within the company is

15 Facebook. And because the business unit I am

10:26:13

16 within is Facebook, I did not want there to be

17 confusion at a future point in time.

18 Q. Okay. Great.

19 Like I said, I will just refer to

20 everything that's under the umbrella of Meta as

10:26:30

21 Facebook, unless I tell you otherwise.

22 Who -- excuse me -- which current

23 employees of Facebook did you speak with?

24 A. I spoke with a gentleman named

25 Cayman Simpson. Another gentle- -- gentleman named

10:26:53

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1 Yondy Kang. I spoke with Amanda Yin. Fan Wu. 10:26:57

2 Shweta Metkar (phonetic). And Maggie Gee.

3 Q. And you're aware we provided documents to
4 your counsel at Gibson Dunn in advance of this
5 deposition? 10:27:18

6 A. Yes, I'm aware.

7 Q. And did you -- did you personally review
8 any of those documents in -- in advance of this
9 deposition?

10 A. Yes. 10:27:28

11 Q. Okay. Do you remember which ones?

12 A. I do not. I -- I scanned through all of
13 them and really reviewed them to make sure that
14 they related to the topic at hand.

15 Q. Okay. We can probably move on here. 10:27:42

16 What is your current position at
17 Facebook?

18 A. I support data engineering for Facebook
19 application within -- within Facebook.

20 Q. And what is data engineering? 10:28:08

21 A. Data engineering is the team responsible
22 for measuring what happens on the application and
23 taking that measurement and putting it into systems
24 for the purpose of product analytics.

25 Q. How long have you been in that position? 10:28:32

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1 A. Four and a half years. 10:28:36

2 Q. Wow. Okay.

3 And before that were you in any position
4 related to the measuring of what goes on, on the
5 Facebook Platform? 10:28:52

6 A. No.

7 Q. Okay. What was your -- let's just start
8 here.

9 What was your immediately prior position
10 to the position you have now? 10:29:00

11 A. The immediately prior position was data
12 engineering also. But supporting the sales and
13 marketing team --

14 Q. Okay.

15 A. -- at Facebook. 10:29:12

16 Q. And what were like the approximate dates
17 that you held that position?

18 A. Approximately October 2014 to -- I'm
19 going to get the math wrong here -- January of
20 200- -- I'm going to say 2018, but I often get it 10:29:35
21 confused. It's either 2018 or 2017.

22 Q. You have had, though, a position within
23 data engineering at Facebook since 2014, yes?

24 A. That's correct.

25 Q. Okay. And then before the position that 10:29:47

1 we just spoke about, that you started in 2014, what 10:29:51

2 position did you hold before that?

3 A. I was a principal in a consulting firm.

4 MR. GOULD: Okay. Fabulous. Okay.

5 Thanks. 10:30:05

6 Okay. Chris, let's go to Bates
7 number -9476.

8 MR. SPRINGER: One moment, please.

9 MR. GOULD: Of course.

10 MR. SCHWING: Mr. Fahey, I'll let you in 10:30:32
11 on a tip for the document share --

12 THE DEPONENT: Yes.

13 MR. SCHWING: -- which is, a lot of times
14 the documents, when they get loaded, they don't
15 immediately show up. And so if you click the 10:30:45
16 refresh button within your browser, sometimes the
17 documents will -- will appear.

18 THE DEPONENT: Gotcha. Okay. I'm
19 still -- at this point, I'm still waiting. I still
20 just see Exhibit 330. 10:30:58

21 MR. GOULD: Yeah, me, too. I think
22 Mr. Springer will let us know.

23 And, Mr. Springer, again, when you have
24 time -- I know you're uploading one document now --
25 if you could also upload Bates number -9477, that 10:31:15

1 would be great. 10:31:26

2 (Exhibit 619 was marked for
3 identification by the court reporter and is
4 attached hereto.)

5 MR. SPRINGER: Got it. 10:31:31

6 The first document has been introduced as
7 Exhibit 619.

8 Q. (By Mr. Gould) Okay. So that should be
9 showing up, and let me know when it's up for you,
10 Mr. Fahey. 10:31:46

11 A. I have it up.

12 Q. Okay. Fabulous.

13 And did you review this document in
14 advance of this deposition?

15 A. I did. 10:31:52

16 Q. Okay. Let -- let me just ask you a
17 couple of preliminary questions just so -- because
18 I don't want to waste your or anyone's time.

19 Are you prepared today to testify about
20 what drove changes in these numbers? 10:32:05

21 MR. SCHWING: Object to form.

22 THE DEPONENT: When you say "drove
23 changes," I -- I wouldn't necessarily know exactly
24 what you mean there. Could you --

25 Q. (By Mr. Gould) Sure. Of course. 10:32:29

1 A. -- be a little bit more specific. 10:32:31

2 Q. Fair to say that a lot of the numbers
3 we're going to be talking about today, numbers that
4 you reviewed in advance of this deposition, went up
5 and down, yes? 10:32:42

6 A. Yes, the numbers changed.

7 Q. Those are the kinds of changes I am
8 talking about.

9 And by "drive," I just am talking about
10 what caused them to go up and down. 10:32:55

11 Does that clarify sufficiently for you
12 what I'm talking about?

13 MR. SCHWING: Object to form.

14 Q. (By Mr. Gould) All I'm asking is whether
15 you understand what I mean. That's all. 10:33:08

16 A. I understand what you mean by drive, yes.

17 Q. Okay. Great.

18 So -- and, again, this is so that we're
19 not wasting time.

20 Are you prepared today to testify about 10:33:21
21 what drove changes in the numbers we're going to be
22 talking about today?

23 MR. SCHWING: Object to form.

24 THE DEPONENT: I feel comfortable talking
25 about the numbers as they're presented. My area of 10:33:37

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1 expertise is not product strategy or -- or anything 10:33:42

2 else --

3 Q. (By Mr. Gould) Okay.

4 A. -- that might -- might have had -- had an

5 impact on how the numbers changed.

10:33:52

6 MR. GOULD: That is super helpful.

7 That's great.

8 I just wanted to say, for the record,

9 that -- that Mr. -- Mr. Schwing, we'll expect that

10 the -- the witness designated to testify on

10:34:01

11 subtopic c will be able to testify on what drove

12 changes in the numbers.

13 Q. (By Mr. Gould) I want to direct your

14 attention, Mr. Fahey, again to the -- to the

15 spreadsheet that's open here.

10:34:18

16 Are -- are you prepared to testify about

17 the resources that Facebook devotes to keeping

18 track of this data?

19 MR. SCHWING: Object to form.

20 THE DEPONENT: Again, what I -- what I

10:34:46

21 prepared for was to talk about the numbers.

22 Q. (By Mr. Gould) In other words, you're

23 prepared -- oh, sorry. Go ahead.

24 A. No, please, go ahead.

25 Q. In other words, you're prepared to talk

10:34:58

1 about the numbers themselves? 10:34:59

2 A. Correct.

3 Q. And not the resources that Facebook
4 devotes to keeping track of those numbers?

5 MR. SCHWING: Object -- object to form. 10:35:14

6 THE DEPONENT: I think when you say
7 resources to keep track of, I think that's --
8 that's a very broad topic and --

9 Q. (By Mr. Gould) Sure.

10 A. -- I would not be the person to talk to 10:35:27
11 about the resources because I just wouldn't be able
12 to speculate or guess.

13 MR. GOULD: Great. Okay. Super helpful.

14 Again, Mr. Schwing, just for the record,
15 I will expect that the witness designated to 10:35:40
16 testify on subtopic c will be prepared to testify
17 about -- about that.

18 MR. SCHWING: Well, let -- let me pause
19 here to -- if we could, to just make sure that we
20 have some clarity. 10:35:53

21 I think the Special Master indicated
22 earlier it's helpful if we talk about, you know,
23 which -- which witness will cover what.

24 Mr. Fahey, I believe, can speak to,
25 you know, the -- the -- the infrastructure that's 10:36:04

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1 used to store the -- you know, and -- and track
2 this information.

10:36:08

3 And, you know -- you know, what -- what

4 [REDACTED]
5 are stored, and I think perhaps what you were 10:36:21
6 asking related to that. So Mr. Fahey would be the
7 right person to ask --

8 MR. GOULD: Fabulous.

9 MR. SCHWING: -- that question.

10 MR. GOULD: Thank you, Mr. Schwing.

10:36:32

11 MR. SCHWING: I -- I think there may have
12 been just some confusion about what -- what it is
13 you were after.

14 Q. (By Mr. Gould) Okay. Again, let's --
15 let's go back to this -- to this spreadsheet here.

10:36:39

16 Fair to say that this spreadsheet --

17 MR. GOULD: Mr. Springer, can you remind
18 me what the exhibit number for this is.

19 MR. SPRINGER: 619.

20 Q. (By Mr. Gould) Okay. I'll just refer to 10:37:01
21 it as Exhibit 619, Mr. Fahey.

22 [REDACTED]
23 [REDACTED]
24 [REDACTED] [REDACTED] [REDACTED]
[REDACTED]

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1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9

Q. And correct me if I'm wrong here, but

10 Messenger is Facebook's direct messaging app; is

10:37:57

11 that correct?

12 A. Messenger is a messaging app within --

13 within Meta -- within Facebook, and it can be used

14 for direct messaging.

15 Q. So what I'm wondering is whether these --

10:38:24

16 well, let me step back.

17 It's possible, I assume, to upload videos

18 to the Facebook Platform other than using

19 Messenger; is that correct?

20 A. Yes.

10:38:49

21

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1

[REDACTED]

14

Okay. Great.

15

A. No. That's quite all right.

10:39:59

16

17

MR. GOULD: Let's go on to the next

exhibit, which I presume is marked 620.

18

19

(Exhibit 620 was marked for

identification by the court reporter and is

20

attached hereto.)

10:40:05

21

MR. GOULD: Let me see here. Yeah.

22

23

Q. (By Mr. Gould) And let me know when you

have that up.

24

A. It's up right now, yes.

25

Q. Fabulous. Okay.

10:40:24

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1 This document, Exhibit 620, did you 10:40:30

2 review it in preparation for this deposition?

3 A. Yes, I did.

4 Q. And just to clarify, both this exhibit 10:40:39

5 and the previous exhibit, these were prepared by

6 Facebook employees.

7 They were -- these documents were created

8 by Facebook employees, I assume?

9 A. I was not directly involved in the 10:40:55

10 creation of the documents. So I would only be

11 speculating as to who -- who created them or how

12 they were created.

13 Q. They were created, though, by somebody at

14 Facebook, yes?

15 A. They would have to have been, yes. 10:41:07

16 Q. Okay. Fabulous.

17 Any reason to think that the data in

18 these spreadsheets is -- doesn't reflect the actual

19 data that Facebook has?

20 A. No. 10:41:21

21 Q. Okay. Fabulous. That's what I'm

22 wondering.

23 So again, in this exhibit, there appears

24 [REDACTED]

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1

8

9

area of expertise. So -- so I wouldn't -- I
wouldn't be comfortable, you know, really
speculating in that area at all.

10:43:49

Q. (By Mr. Gould) Who at Facebook do you
think would know that question -- the answer to
that question?

10:44:02

A. I honestly would not know.

Q. Okay. Are you familiar with how these
documents -- well, excuse me.

Are you familiar with the general process
for how these documents, this spreadsheet and the
previous one were created?

10:44:26

A. I am.

Q. And how -- can you describe that process
for me.

25

1

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1

[REDACTED]

18

MR. SCHWING: Object to form.

19

THE DEPONENT: Yeah. Again, I -- I --

20

I'd hesitate to put a label on it and that's why

10:48:05

21

I -- you know, maybe using casual language here is

22

problematic. I would just go back to the way I

23

explained it. I don't know that I'd be comfortable

24

summarizing it.

25

Q. (By Mr. Gould) And here I'm just trying

10:48:23

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1 to make sure I understand.

10:48:25

2

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4

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10

12 MR. SCHWING: It's vague.

13 THE DEPONENT: Would you maybe --

14 Q. (By Mr. Gould) Sure.

15 A. Yeah.

10:49:44

16 Q. Here's another way of asking it. I'm

17 sorry.

18

19

20 MR. SCHWING: Object to form.

10:49:55

21

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1

[REDACTED]

2

[REDACTED]

4

MR. SCHWING: Vague.

5

[REDACTED]

[REDACTED]

6

[REDACTED]

8

Maybe you could give me a more

9

specific --

10

Q. (By Mr. Gould) Sure.

10:51:04

11

A. -- with what would be Meta.

12

[REDACTED]

13

[REDACTED]

14

[REDACTED]

[REDACTED]

15

[REDACTED]

16

[REDACTED]

18

[REDACTED]

19

[REDACTED]

20

[REDACTED]

[REDACTED]

22

MR. SCHWING: Object to form.

23

THE DEPONENT: I think I understand what

24

you're saying.

25

[REDACTED]

[REDACTED]

HIGHLY CONFIDENTIAL

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10:52:32

6

A. I'm sorry. What was the word right

7

before --

8

[REDACTED]

9

A. Yeah, I understand.

10

[REDACTED]

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HIGHLY CONFIDENTIAL

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5

Q. I see.

10:54:24

6

Then perhaps a better way of answering my

7

question then would be to say -- or to ask you, the



16

MR. SCHWING: Object to form.



22

Q. (By Mr. Gould) Forgive me --

23

A. For sure.



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HIGHLY CONFIDENTIAL

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MR. SCHWING: Vague.

HIGHLY CONFIDENTIAL

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[REDACTED]

8

Okay?

9

A. (Deponent nods head.)

[REDACTED]

10:59:14

16

Q. Great.

17

And I will use the term -- and I don't

18

know if it's the correct technical term. But I

19

[REDACTED]

20

which these produced numbers are based.

10:59:33

21

Do you at least understand sort of what

22

I'm getting at by that term?

23

A. I do.

24

Q. Okay. Fabulous.

25

[REDACTED]

[REDACTED]

HIGHLY CONFIDENTIAL

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MR. SCHWING: Object to form.

5

THE DEPONENT: So I think what you're

11:00:30

6

asking me is, what is the system or the process

7

that --

8

Q. (By Mr. Gould) Let's start there.

9

A. -- that's taking place?

10

Q. Let's start there.

11:00:42

11



16

Q. Okay. And so it sounds to me like there



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HIGHLY CONFIDENTIAL

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[REDACTED]

15

MR. SCHWING: Objection. Vague.

11:02:52

[REDACTED]

23

MR. SCHWING: Objection. Vague.

24

I -- I don't want to -- it's -- it's

25

compound, Ben.

11:03:54

HIGHLY CONFIDENTIAL

1 Do you want to take them like one at a 11:03:56

2 time? I just -- I want to make sure he can answer.

3 MR. GOULD: Okay.

4 [REDACTED]

[REDACTED]

[REDACTED]

7 A. So we're looking at -9477 now, correct,

8 620; is that right?

9 Q. Yeah. Let's start there.

1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 Q. Okay. Fabulous.

18 Let's go back -- I believe we were just

19 talking about Exhibit 620, yes?

20 A. I think so.

11:05:01

21 Q. Okay. Let's go back to 619.

22 A. Okay.

23 Q. You carefully reviewed those numbers,
24 correct?

25 A. Yes.

11:05:11

HIGHLY CONFIDENTIAL

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25

MR. GOULD: Chris, I would like you to

upload a whole bunch of files here. Let's start

11:05:26

with -2689.

MR. SPRINGER: Okay.

MR. GOULD: And do you see where -- where
I am, Chris?

MR. SPRINGER: Yes.

11:05:46

MR. SCHWING: Ben- --

MR. GOULD: So I want you to -- to --

to --

MR. SCHWING: Ben- -- Benjamin, can I
interrupt you for just -- I'm sorry -- for just one
second.

11:05:50

While you're loading up a bunch of stuff,
can we just take like a three-minute break. I have
to let a contractor into my backyard --

MR. GOULD: Yeah, absolutely.

11:05:57

MR. SCHWING: Just five -- maybe five
minutes and we can -- we'll break away and then
we'll --MR. GOULD: Yeah. That would actually be
helpful. Thank you.

11:06:03

1 MR. SCHWING: Sorry -- sorry about that. 11:06:05

2 Thank you. Appreciate it.

3 Let's go to the breakout room.

4 THE VIDEOGRAPHER: Okay. We're off the
5 record. It's 11:06 a.m.

6 (Recess taken.)

9 Q. (By Mr. Gould) Let me go back briefly to
10 the two spreadsheets we have talked about earlier 11:13:50
11 in this deposition, Exhibits 619 and 620.

14 correct?

15 A. Correct. 11:14:14

18 A. Correct.

19 Q. If I am a Facebook user and I upload a
20 video I took of my kids to my Facebook profile, I
21 not uploading it via Facebook Messenger, am I?

22 A. No, you're uploading it via Facebook.

23 Q. Okay. If I am live streaming playing
24 Call of Duty, I'm not doing that using Facebook
25 Messenger, am I?

HIGHLY CONFIDENTIAL

1 A. No. 11:14:56

2 Q. Okay. If I'm an advertiser and I
3 advertise using video, that video isn't uploaded
4 via Facebook Messenger, is it?

5 A. No. 11:15:15

6 Q. Okay. All right. I have -- I have a
7 whole bunch of other ones to go through. But...

8 I'm actually just trying to get -- get my
9 head around like the proper nomenclature.

10 You said that if I'm a Facebook user and 11:15:36

11 I'm uploading a video to my profile, I'd be
12 uploading it via the Facebook Platform; is that
13 correct?

14 A. That is the -- that is the verbiage that
15 I tend to use. 11:15:50

16 Q. Okay.

17 A. I think -- I -- I -- maybe to help you a
18 little bit. We have Facebook as an application.
19 We also have Messenger as a separate application.

20 So if you think about it on your, say, phone or 11:16:02
21 your device, you're going to see two separate
22 applications.

23 Q. Got it.

24 A. So whatever you're uploading through,
25 you're in the Messenger application or you're in 11:16:12

1 the Facebook application. 11:16:15

2 Q. Got it. I see.

3 And organizations or groups that have
4 Facebook pages, if they were to upload a video to
5 that page, they're not uploading it via 11:16:25
6 Facebook Messenger, right?

7 A. No.

8 Q. They're uploading it via the
9 Facebook Platform?

10 A. They have a few ways to upload. 11:16:36

11 Q. How -- what -- what are those ways?

12 A. Creator Studio would be more than likely
13 the most prominent. But there are also ways to
14 upload videos directly to your page without going
15 through Creator Studio. 11:16:53

16 Q. Is Creator Studio another -- another
17 Facebook app?

18 A. I would consider it part of the
19 Facebook Platform. But when you get into app,
20 right, that's very much like a concept you would 11:17:15
21 see on a phone or an iPad, or whatever. So it is
22 an aspect of the Facebook Platform, I think, is --
23 is a better way to think of it.

24 Q. Got it.

25 Okay. Again, I want to make sure that I 11:17:26

HIGHLY CONFIDENTIAL

1 get everything correct.

11:17:31

2 Can you think of -- so we've -- we've

3 spoken about uploading videos via

4 Facebook Messenger. We've spoken about uploading

5 videos using the Facebook Platform, including by

11:17:45

6 this Creator Studio -- is that the correct -- or

7 studio creator?

8 A. Creator Studio.

9 Q. Creator Studio. Okay.

10 Are there other ways to upload video that

11:17:58

11 you know of to Facebook?

12 A. I'd be guessing, if I was going to

13 speculate beyond what I just said.

14 Q. Okay. Okay. Fair.

15 We'll get to that with another designee.

11:18:10

16 And do you know how Facebook delivers

17 video ads on behalf of advertisers?

18 MR. SCHWING: Object to scope.

19 THE DEPONENT: So the -- really the topic

20 that I prepared for was the metrics and the

11:18:41

21 numbers. So I don't -- I don't know that I could

22 get into any of that.

23 MR. GOULD: Okay. Okay. We'll cover

24 that with -- planning on covering that just -- I

25 want to state, for the record, with another

11:18:50

1 designee. 11:18:54

2 Q. (By Mr. Gould) Okay. So let's go to
3 Exhibit 621, Mr. Fahey.

4 A. All right.

5 Q. Let me know when you have that open. 11:19:06

6 A. Yup.

7 Q. Fabulous.

8 So in the columns --

9 MR. SCHWING: Mr. Gould, just before you
10 get to the next question, you said "another 11:19:11
11 designee."

12 I just want to be clear we've identified
13 that advertising questions should be directed to
14 the advertising designees that we put forward as of
15 those two -- the two witnesses over the next couple 11:19:19
16 days. But you and I can chat about that further.

17 MR. GOULD: I understand that to be your
18 concern.

19 MR. SCHWING: Okay.

20 (Exhibit 621 was marked for 11:19:27
21 identification by the court reporter and is
22 attached hereto.)

23 Q. (By Mr. Gould) So let -- so what --
24 let's see here. This is 621.

25 Okay. This spreadsheet that's been 11:19:35

HIGHLY CONFIDENTIAL

1 marked as Exhibit 621, the -- I'm going to go

11:19:37

2 [REDACTED]

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HIGHLY CONFIDENTIAL

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 Q. Okay. That's super helpful. Thank you.

[REDACTED]

18

Q. Got it.

19

A. -- for the other sheet.

[REDACTED]

HIGHLY CONFIDENTIAL

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[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11

Q. Okay. Does this include videos available
only through third-party apps?

12

MR. SCHWING: Object to form.

13

THE DEPONENT: I -- I would not be able

14

to speculate on anything related to -- to

11:23:30

15

third-party apps.

16

[REDACTED]

17

[REDACTED] [REDACTED]

18

[REDACTED]

21

Q. And so --

22

[REDACTED] [REDACTED]

23

[REDACTED]

24

[REDACTED]

25

[REDACTED]

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[REDACTED]

3

MR. SCHWING: Vague.

4

THE DEPONENT: So you're asking me what

7

Q. (By Mr. Gould) Right.

8

A. That's not something I could -- I could
speak to because it's not really part of the

10 process. 11:24:54

11 Q. Got it.

15 A. Can you say that question again, please. 11:25:10

16 Q. Sure. Sure. Be happy to.

25 A. That -- that gets into -- 11:25:51

HIGHLY CONFIDENTIAL

1 Q. Let me ask it differently. Sorry. 11:25:55

2 If I'm watching a video on Facebook, I'm
3 not watching it on -- or excuse me.

4 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 Q. Do you know who would be able to speak to
10 that? 11:26:16

11 A. Honestly --

12 MR. SCHWING: Sorry. Just give me a
13 second.

14 The question is vague.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 A. I wouldn't be able to speculate if a 11:27:18

HIGHLY CONFIDENTIAL

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[REDACTED]

10

MR. SCHWING: Vague.

11:27:58

[REDACTED]

21

Q. Okay. Thank you.

22

Sorry. I didn't mean to spend too much

23

time on that, but that's very helpful to me.

25

correct?

11:28:54

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4 MR. SCHWING: Compound.

5 THE DEPONENT: I'm sorry. Did somebody 11:29:14
6 say something?

A horizontal bar chart with a y-axis labeled '9' and an x-axis labeled '100'. There are four bars: the first is very narrow, the second is wide, the third is narrow, and the fourth is very wide.

11 A. Again, I wasn't involved in how the --
12 the data was pulled. So all I can speak to is the
13 data that's on the --

14 Q. Okay.

15 A. -- on -- in the spreadsheet.

correct?

22 MR. SCHWING: Scope. Outside the scope.

23 Q. (By Mr. Gould) Let me step back then,
24 Mr. Fahey, because, again, I don't want to waste
25 anybody's time.

HIGHLY CONFIDENTIAL

1 A. Sure. 11:30:15

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 MR. SCHWING: Vague. 11:30:27

6 THE DEPONENT: That is correct. I'm
7 prepared to talk about the numbers themselves.

8 MR. GOULD: Great. So, again, just for
9 the record, I'll be expecting your designee for
10 subtopic c to be able to talk about -- to talk 11:30:38
11 about that.

12 Q. (By Mr. Gould) So do you know whether
13 Facebook enables video content creators to keep

14 [REDACTED]

15 MR. SCHWING: I -- I think -- let's pause 11:30:50
16 on that.

17 I do think that the witness can generally
18 speak to the fact that -- you know, that there
19 are -- are metrics and that different kind of
20 general -- you know, kind of use cases, why things 11:30:59
21 are, you know, asked for. But I think your
22 question was just -- I just want to be helpful,
23 Mr. Gould, in terms of kind of the -- the scope
24 here.

25 MR. GOULD: Okay. 11:31:12

1 MR. SCHWING: You know, specific -- like 11:31:13
2 it depends what you're asking exactly. He -- he's
3 not going to know every metric ever pulled and --
4 and why and how it was used because it's a giant
5 business. But I do think he can generally speak 11:31:21
6 to the -- the topic. So I want to -- I want to
7 pause you there and let you explore that, if you'd
8 like to.

9 Q. (By Mr. Gould) Okay. So does Facebook
10 enable video content creators to keep track -- 11:31:36

12 A. We enable content creators, through
13 Creator Studio, to keep track of a set of metrics.

15 there. But there is -- there are metrics related 11:31:51
16 to watch time.

1 to 622. 11:34:00

2 (Exhibit 622 was marked for
3 identification by the court reporter and is
4 attached hereto.)

5 Q. (By Mr. Gould) Okay. And this is a 11:34:03
6 spreadsheet, correct?

7 A. Yeah. Bear with me with one second.

8 Q. Oh, sure. Of course.

9 A. I got to put the password back in. The
10 laptop locked up.

11 622. Okay. I have it up.

12 Q. Got it. Okay.

13 You reviewed this spreadsheet in advance
14 of your deposition today, correct?

15 A. Yes. 11:34:50

Category	Start Sample	End Sample
0	0	100
1	100	200
2	200	300
3	300	400
4	400	850
5	850	950
6	950	1000
7	1000	1000
8	1000	1000
9	1000	1000
10	1000	1000

25 excuse me. 11:35:25

1

3 A. I wouldn't be able to speak to -- to
4 that. Again, I'm really only prepared to talk

6 Q. Sure.

9 A. Yes. My understanding is this is

11 Q. Okay. Let's go on to -- this is 622.
12 Let's go on to 623.

13 A. Before we move on -- you know, I just --
14 I wanted to flag something because you had asked me

21 Q. Yes. Thank you. Yes. Thank you. Yes.

22 A. I just didn't want you to think I was
23 glossing over that.

24 Q. No, Mr. Fahey. Thank you. Thank you for
25 pointing that out.

11:38:08

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HIGHLY CONFIDENTIAL

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[REDACTED]

15

Q. And are you able to produce a spreadsheet

11:38:46

[REDACTED]

[REDACTED]

18

MR. GOULD: Okay. Mr. Schwing --

19

MR. SCHWING: Yes.

20

MR. GOULD: -- I would just respectfully

11:39:04

21

ask that -- that Facebook do so and produce it to

22

us, if it hasn't already.

23

MR. SCHWING: Yeah. And it may be

24

helpful to speak to Mr. Fahey about that. It -- I

25

think it depends on -- I'm -- I'm happy to speak

11:39:16

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HIGHLY CONFIDENTIAL

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5

And you can ask Mr. Fahey more about that

11:39:34

6

now, if you would like to, but -- or we -- or we

7

can discuss it later. Whatever -- whatever makes

8

sense. But it's not the kind of thing that I can

9

just easily do. I think it may be --

10

(Simultaneously speaking.)

11:39:46

11

MR. GOULD: No, I'm not asking you today,

12

by any means.

13

MR. SCHWING: Well, or even -- it may be

14

difficult later even. We need to discuss the --

15

the specifics of it because I think it's a little

11:39:54

16

bit of a complex issue.

17

And so if you want to ask Mr. Fahey more

18

about it now, you can, or we can talk about it --

19

MR. GOULD: Okay.

20

MR. SCHWING: It's certainly not

11:40:02

21

something we can resolve right now.

22

MR. GOULD: Sure. Get it.

23

Q. (By Mr. Gould) So Mr. Fahey, on this

[REDACTED]

[REDACTED]

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HIGHLY CONFIDENTIAL

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[REDACTED]

7

MR. GOULD: Okay. So that was 622, I

8

believe. I think -- yes.

9

(Exhibit 623 was marked for

10 identification by the court reporter and is

11:40:47

11 attached hereto.)

12 MR. GOULD: So let's move on to 623 --

13 Exhibit 623, Mr. Fahey.

14 This is Bates number -03962691.

15 Q. (By Mr. Gould) Mr. Fahey, did you review

16 11:41:04

this document in advance of the deposition today?

17 A. I did.

18

[REDACTED]

HIGHLY CONFIDENTIAL

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12

Let's leave it there for now.

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22

Thank you.

■

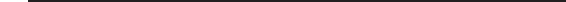
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A horizontal bar chart with four categories on the x-axis. Category 1 has a single bar extending to the right. Category 2 has a single bar extending to the right. Category 3 has a single bar extending to the right. Category 4 has a single bar extending to the right, with a label '1' above it.

5 A. That is a very difficult question to 11:43:22
6 answer as yes or no.

7 Q. Then -- then answer to your best -- the
8 best of your ability.

9 |  

13 MR. GOULD: Okay. Okay. Moving on to
14 the next exhibit.

15 (Exhibit 624 was marked for 11:43:59
16 identification by the court reporter and is
17 attached hereto.)

18 MR. GOULD: That would be 624, I believe.

19 And that corresponds to Bates number -- for those
20 of you following along -- -03970356.

21 Q. (By Mr. Gould) Mr. Fahey, did you review
22 this document in advance of your deposition today?

23 A. I did.

24 Q. Okay. And the following question applies
25 to both this spreadsheet and the rest of the 11:44:35

HIGHLY CONFIDENTIAL

1 spreadsheets that we've seen today.

11:44:38

2

3

4

5 Q. Okay. Thank you.

11:44:43

6

7

8

9

10

11

12

13

14

15

16

17

18

Can you tell me what that captures?

19

20

21

22

So in other words, is this by -- by

23

24

25

you don't have to answer this question because I'm

going to put it in -- in a form that is admissible.

11:45:58

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HIGHLY CONFIDENTIAL

1 But the things that I am -- I am talking 11:46:01

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] [REDACTED] [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 That's the sort of metric I'm talking
9 about.

10 [REDACTED] [REDACTED]
11 [REDACTED]

12 MR. SCHWING: I'm going to object to the
13 form with all the -- the lead-in. But maybe --
14 just to help you out maybe, Ben, like can -- give a
15 little explanation. Maybe it's helpful. 11:47:05

16 Do you want to start with a new question
17 so that he can answer it so I don't have to object
18 to it.

19 MR. GOULD: Sure.

20 MR. SCHWING: Okay. 11:47:11

21 [REDACTED] [REDACTED] [REDACTED]
22 [REDACTED]
23 [REDACTED] [REDACTED]
24 [REDACTED]
25 [REDACTED] [REDACTED]

HIGHLY CONFIDENTIAL

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Q. Anything else?

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HIGHLY CONFIDENTIAL

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2 A. That's correct. I can only speak of --

3

4

5

6 MR. GOULD: Moving on to I think -- was

7

that 624? I think it was.

8

9 (Exhibit 625 was marked for
10 identification by the court reporter and is
11 attached hereto.)

11:49:48

12

MR. GOULD: So moving on to 625, which is
Bates number -03962693.

13

14

Q. (By Mr. Gould) There are two columns

here.

15

16

17

18

19

20

21

22

23

24

25

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HIGHLY CONFIDENTIAL

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. And a video that is recorded using that
13 live button, it can, after it's recording, be
14 uploaded to the Facebook Platform to be viewed on
15 demand, if the content creator so wishes? 11:51:25

16 A. If the content creator wishes, they
17 can -- at the conclusion of streaming, they can
18 choose to save. They can choose to share.
19 They can -- they can -- they can choose to put it
20 on the platform. 11:51:47

23 A. Give me one second here.

1 [REDACTED] [REDACTED] [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 Q. Okay. The way that Facebook gathers this 11:52:17
6 data is, broadly speaking, the same process we've
7 spoken about earlier, correct?

8 A. Correct.

16 Q. Okay. Let's go back to 624.

18 A. Okay.

19 Q. Okay. So similar questions, in producing

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11:53:47

6

A. In reviewing this sheet, no, correct.

7

MR. GOULD: Let's -- we were just on 625.

8

So let's move on to 626.

9

The Bates number here is -03962694.

10

(Exhibit 626 was marked for

11:54:04

11

identification by the court reporter and is

12

attached hereto.)

13

Q. (By Mr. Gould) And did you review this

14

spreadsheet in advance of the deposition,

15

Mr. Fahey?

11:54:16

16

A. I did.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

MR. SCHWING: Object -- object to form.

22 Just to be helpful, Ben, you just left

24 just have --

25 MR. GOULD: Oh, I'm sorry.

11:56:19

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HIGHLY CONFIDENTIAL

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[REDACTED]

[REDACTED]

[REDACTED]

5

Q. No.

11:56:40

6

Okay. What does it show?

[REDACTED]

19

MR. SCHWING: Okay. My -- my apologies

20

for trying to be helpful there. I almost got in

11:57:23

21

the way.

22

MR. GOULD: It is okay. You at least --

23

you at least removed all ambiguity.

24

MR. SCHWING: I'm trying to get -- I'm
trying to help us get through this.

11:57:31

25

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1 MR. GOULD: Yeah. Yeah. Yeah. No, it's 11:57:33
2 great. I appreciate it.

A horizontal bar chart with 10 categories on the x-axis and a single value '3' on the y-axis. The x-axis is labeled with values from 0 to 1000 in increments of 100. Category 1 has a bar at 100. Category 2 has a bar at 200. Category 3 has a bar with segments at 100, 200, 300, 400, 500, 600, 700, 800, and 900. Category 4 has a bar at 300. Category 5 has a bar at 400. Category 6 has a bar at 500. Category 7 has a bar at 600. Category 8 has a bar at 700. Category 9 has a bar at 800. Category 10 has a bar at 900.

15 MR. GOULD: Okay. Got it. 11:58:11

16 Moving on to 627, which is

17 Bates number - 03962695.

18 (Exhibit 627 was marked for

19 identification by the court reporter and is

20 attached hereto.)

11:58:16

21 THE DEPONENT: Okay. I have it open.

111 111 111 111

—
—
—

A horizontal bar composed of three black rectangles. The first rectangle is the narrowest, the second is of intermediate width, and the third is the widest, extending across most of the horizontal span. This visual element likely represents a progress bar or a loading indicator.

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HIGHLY CONFIDENTIAL

1

[REDACTED]

14

Q. Great.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Does this -- what does that show --

18

A. That shows --

19

Q. -- the last column?

20

A. Yeah, that's a good question.

11:59:24

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

HIGHLY CONFIDENTIAL

1

[REDACTED]

8

Q. Thank you.

9

A. Yeah.

[REDACTED]

20

Q. Okay. Moving on, we have just reviewed

12:00:49

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23

Sorry. Let me restate that.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Page 75

HIGHLY CONFIDENTIAL

1

[REDACTED]

[REDACTED]

2

[REDACTED]

3

[REDACTED]

4

5 Q. Okay. Are there other ways that Facebook 12:01:49
6 measures video content, that's delivered via the
7 Facebook Platform, that do not appear in the
8 documents we've gone over so far?

9

MR. SCHWING: The question is vague.

10

THE DEPONENT: That's pretty open-ended. 12:02:20
11 Could you be more specific about the kind of metric
12 you're looking for.

13

Q. (By Mr. Gould) Well, sitting here, can 12:02:45
14 you think of any metric that, in your experience,
15 you've seen applied to video content on the
16 Facebook Platform that we haven't spoken about thus
17 far in this deposition?

18

Please take your time.

19

MR. SCHWING: The question is vague.

20

THE DEPONENT: No. 12:03:25

21

Q. (By Mr. Gould) Okay. So does
22 Facebook -- I'll be more specific now.

23

[REDACTED]

24

[REDACTED]

[REDACTED]

HIGHLY CONFIDENTIAL

1

MR. SCHWING: Sorry --

2

THE DEPONENT: If you mean in

3

4

MR. SCHWING: I'm sorry, Mr. Fahey, 12:04:06
just -- sorry. You're quicker -- quicker than I
am.

5

6

THE DEPONENT: Sorry.

7

MR. SCHWING: The question is vague.

8

9

I apologize for interrupting you.

12:04:11

10

11

You can go ahead, if you understand.

12

13

Q. (By Mr. Gould) Mr. Fahey, I'll -- just
for -- to make things easier, I'm going to restate
it.

14

15

Can Facebook measure the amount of data 12:04:28
that's related to video content on the
Facebook Platform, relative to the total amount of
data on the Facebook Platform?

16

17

MR. SCHWING: The question is vague.

18

19

THE DEPONENT: Could I maybe help?

12:04:54

20

21

Q. (By Mr. Gould) Please. Please.

22

23

A. Do you mean -- do you mean like -- do you
mean in terms --

24

25

Q. I will take all the help I can get.

HIGHLY CONFIDENTIAL

1 Q. Yeah. 12:05:07

2 A. Is that what you mean?

3 Q. Yeah.

4 A. I would have to -- I would only be

5 speculating. I am not aware -- 12:05:13

6 Q. Okay.

7 A. -- of anything related to that.

8 Q. Does -- can Facebook measure the

9 proportion out of the aggregate user time spent on

10 the platform that users spend watching videos? 12:05:28

11 MR. SCHWING: Vague.

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

16 Q. (By Mr. Gould) Sure. Let's start there.

17 Yes, that's what I mean.

18 A. For that one, no.

19 Let me take a look here. I might be in

20 the wrong sheets. 12:06:40

21 Yeah. I'm -- I'm not -- you know, I'd

22 have to -- I'd be speculating. I'm going through

23 these sheets and I -- and I -- I think understand

24 the question you're asking. And I could only

25 speculate or guess. I'm not aware. 12:06:55

1 Q. How about -- go to Exhibit 621, if you 12:07:00
2 wouldn't mind --

3 A. Sure.

4 Q. -- which is Bates number, I believe,
5 -03962689?

6 A. Correct.

7 Q. Okay. And do you see column D there?

11 MR. SCHWING: The question is vague.

14 Q. (By Mr. Gould) Do you know whether
15 Facebook measures the amount of time that users
16 spend on the Facebook Platform?

17 MR. SCHWING: Outside the scope.

18 THE DEPONENT: I do.

19 Q. (By Mr. Gould) And does it keep track of
20 that?

21 MR. SCHWING: Same objection.

HIGHLY CONFIDENTIAL

1 Q. (By Mr. Gould) Fair.

12:08:44

2 It is correct to say, however, that

3 Facebook has the capacity to produce numbers

4 showing the aggregate amount of time that all users

5 spend on the Facebook Platform for a given year; is 12:09:10

6 that correct?

7 MR. SCHWING: Outside the scope.

8 THE DEPONENT: I would only be

9 speculating at this point in time whether or not

10 we -- we do or have produced that number. 12:09:30

[REDACTED]

[REDACTED]

[REDACTED]

14 A. That's correct.

15 Q. And does Facebook store the raw data that

12:09:49

16 is produced by that measurement somewhere?

17 A. I honestly don't know.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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HIGHLY CONFIDENTIAL

1 Q. Okay. And here we're -- we talked 12:10:59

2 about -- actually, never mind.

7 Q. Okay.

14 A. I'm sorry. Say that again, please.

15 Q. Sure. 12:11:48

23 A. So I'm just trying to correlate your

25 Q. Take your time. 12:12:43

HIGHLY CONFIDENTIAL

1 A. For that I would be speculating. 12:13:01

2 That would -- that's not something I could -- I
3 could say yes or no to.

4 Q. For the spreadsheets we have discussed so
5 far, videos that are included in advertisements on 12:13:18
6 the Facebook Platform have not been included in any
7 of the numbers we have looked at, correct?

8 A. That's a great question.

14 A. Yeah. Sorry for the -- for the term.

15 Q. That's fine. 12:14:10

25 A. I can't -- I can't speak to the -- the 12:15:11

HIGHLY CONFIDENTIAL

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12:15:29

6

Q. Let me give an example to see if I
understand what this means.

8

Suppose that Larry David uploads -- do
you know who Larry David is?

10

A. (Deponent nods head.)

12:15:56

11

Q. Okay. Let's suppose that Larry David
uploads a video showing him buying cryptocurrency.
Let's say a cryptocurrency exchange wants to ensure
that people see that video -- or more people see
that video.

12:16:26

16

Would one way to do that be to boost that
video?

18

MR. SCHWING: Outside the scope, insofar
as it relates to advertising. There's another
witness for that.

12:16:41

21

THE DEPONENT: I'd be -- I -- I would be
speculating on how that interplay between the
creator and the company would work. I -- I don't
know the answer to that.

25

MR. GOULD: Okay.

12:16:57

HIGHLY CONFIDENTIAL

1 MR. SCHWING: Ben, we've been going for a 12:17:13

2 little over an hour. Is this a good time for a
3 break?

4 MR. GOULD: Sure. Do you want to take a
5 five- or ten-minute break? I'm happy to do that. 12:17:20

6 MR. SCHWING: Okay. And without holding
7 you to anything hard and fast, do you have a sense
8 of --

9 MR. GOULD: Oh, I would say -- I -- I
10 would say that we probably have an hour to go. 12:17:34

11 MR. SCHWING: Okay. All right. That's
12 helpful. I was just, you know --

13 MR. GOULD: Yeah.

14 MR. SCHWING: -- an approximation, and
15 we're trying to get other folks. So that -- all
16 right. Why don't we go ahead and take a break and
17 we'll be back in about ten. 12:17:49

18 THE VIDEOGRAPHER: Okay. We're off the
19 record. It's 12:17 p.m.

20 (Recess taken.) 12:20:52

21 THE VIDEOGRAPHER: We're back on the
22 record. It's 12:36 p.m.

23 Q. (By Mr. Gould) Mr. Fahey, I asked you
24 whether -- for any of the spreadsheets we have

■

■

HIGHLY CONFIDENTIAL

1

[REDACTED]

[REDACTED]

3

Do you remember that question?

4

A. I do.

[REDACTED]

[REDACTED]

[REDACTED]

8

A. Say that again, please.

[REDACTED]

22

A. I'm going to give you my best

23

layperson --

24

Q. Please.

25

A. -- understanding. Ads are not my area of 12:38:51

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HIGHLY CONFIDENTIAL

1

10

Q. I see.

12:39:28

14

A. That's where you're pushing my

15

understanding of how things work. I -- I don't

12:39:45

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HIGHLY CONFIDENTIAL

1

MR. SCHWING: Objection. Vague.

2

7

Q. (By Mr. Gould) Sure.

17

A. So if you think about the process by
which someone would choose to share a video, they
can upload the video without choosing to publish
it. Meaning that it's been uploaded and it's
stored, but it is not available to anyone other
than the person who uploaded it.

12:42:20

21

22

1 users that -- that -- that Facebook users can watch 12:45:03
2 it, is that -- does that fall under the heading of
3 pub- -- publishing the video?
4 A. If a user uploads to a page the way you
5 described, yes. 12:45:19
6 Q. Okay. And -- well, by -- by user, are
7 you -- do you -- are you including organizations or
8 groups of Facebook pages?
9 A. Yes.
10 Q. Okay. If a brand places an ad with 12:45:40
11 Facebook and that ad includes video content, is
12 that publishing a video?
13 A. Going back to my caveat that I'm not an
14 expert on the ad system, if -- when you say
15 "brand," do you mean an organization or -- or a 12:46:21
16 user, or somebody -- what do you mean by "brand"?
17 Q. J.C. Penney. Boeing.
18 A. Okay.
19 Q. Sears.
20 A. Sure. 12:46:32
21 Q. Microsoft, whatever.
22 A. If they upload a video to their page,
23 that's what I mean by published.
24 Q. What if they don't upload it to the page
25 but simply place it as an ad with Facebook; is that 12:46:50

HIGHLY CONFIDENTIAL

1 publishing a video?

12:46:55

2 A. That starts to get into how the ad system
3 works. I -- I couldn't speak to that process at
4 all. Like the -- the way you're summarizing that,
5 I couldn't speak to that.

12:47:07

6 Q. When a Facebook user uploads video
7 content to the Facebook Platform, the
8 Facebook Platform stores that video content
9 somewhere, correct?

10 A. Yes.

12:47:32

11 Q. Where does it store the video content?

12 A. I don't mean to be difficult here. But
13 when you say "where" --

14 Q. Uh-huh.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18 A. I -- I couldn't speak to physically
19 where.

[REDACTED]

HIGHLY CONFIDENTIAL

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9

A. Are you asking how is a video stored?

10

Q. Yes. Sure. Let's start there.

12:49:19

11

How is the video stored?

12

A. I could not really speak to the mechanics
of how it's stored.

14

Q. And --

15

MR. SCHWING: Yeah, I'm just going to

12:49:37

16

insert a belated objection that this is outside of

17

the scope. Mr. Fahey can talk about the user's --

18

kind of the infrastructure for the user's access,

19

and, you know, tracking of user's access

20

interactions. But the storing of the actual video

12:49:50

21

is not something that is contemplated under

22

topic 9a or b. And there will be another witness

23

with respect to advertising.

24

Q. (By Mr. Gould) Mr. Fahey, would you mind
going back to -- going back to Exhibit 330 for me.

12:50:14

25

1 I'm going to direct your attention to page 15. 12:50:34
2 Let me know when you're there.
3 A. I'm on page 15.
4 Q. Okay. And do you see at the very top of
5 the page, it reads "b. the records or information 12:51:07
6 that Facebook has regarding such content and users'
7 access to, interactions with or sharing of such
8 content."
9 You understand that that's one of the
10 subtopics you were designated to testify on; is 12:51:24
11 that correct?
12 A. Yes, I do.
13 Q. Okay. And do you have any questions
14 about what that means?
15 A. Yes, I do. 12:51:38
16 Q. Okay. What questions do you have about
17 what subtopic b means?
18 A. What is meant by records or information.
19 Q. Well, among other things, you know, what
20 we meant was where and how video content is stored. 12:51:57
21 But let's -- let's put that aside for now.
22 Are you -- let me just -- again, I don't
23 want to waste anybody's time.
24 Are you prepared to testify about how and
25 where video content is stored on Facebook when -- 12:52:19

1 when -- when video content is uploaded to Facebook? 12:52:23

2 A. I'm prepared to testify about how we
3 track and measure video.

4 Q. Okay.

5 A. And interactions and sharing. 12:52:37

6 Q. Okay. So you're -- you're not prepared
7 to testify about storage of video content, correct?

8 A. Correct. That's not my area of
9 expertise.

10 Q. Okay. Okay. So you wouldn't be able to 12:52:54

11 prepare -- you -- you wouldn't be prepared to
12 testify about whether, say, comments on an uploaded
13 video are one of the things that are stored along
14 with the video content itself?

[REDACTED]

23 Q. Okay. Are you prepared to testify about
24 how video content is retrieved or made available to
25 a user who views it? 12:54:24

HIGHLY CONFIDENTIAL

1 A. No. 12:54:30

2 Q. Okay. Are you prepared to testify about
3 how video content is retrieved or made available to
4 a user who comments on it?

5 A. No. 12:54:47

6 Q. Are you prepared to testify about how
7 video content is delivered to or made available to
8 a user who shares it?

9 MR. SCHWING: I'll just note that there
10 is another witness who we've identified who can 12:55:12
11 discuss how users are able to access video.

12 David Miller will -- will be able to
13 speak to that. Not necessarily the -- like the
14 nitty-gritty technical storage issue. But if
15 you're asking about, you know, video made available 12:55:35
16 to users, he -- he can address that.

17 So I wanted to just flag that. But if
18 your questions are more sort of technical in
19 nature, then...

20 MR. GOULD: Okay. David Miller, who's 12:55:51
21 designated to testify about subtopic c, will be
22 able to discuss how users are able to access video?

23 MR. SCHWING: Yeah. In terms of --
24 right. I mean, there are different tabs in -- on
25 Facebook you can see through watch or live or -- 12:56:04

1 you know, and -- and how you could go about doing 12:56:06
2 that.

3 MR. GOULD: Okay.

4 MR. SCHWING: If your questions are
5 nitty-gritty technical questions -- 12:56:13

6 MR. GOULD: Okay.

7 MR. SCHWING: -- about where a video is
8 stored, like -- you know, and how it works through,
9 you know, an -- an edge server, or something like
10 that, I'm not sure why that would be relevant to 12:56:24
11 the case, but he wouldn't be able to do that.

12 I don't know why you would want to know
13 that, but we can -- we can chat with you about
14 that. I just wanted to make sure that -- to -- to
15 try to be helpful in terms of, you know, Mr. Fahey 12:56:33
16 today and what he can cover versus other witnesses
17 that -- that I share that.

18 Q. (By Mr. Gould) Again, I don't want to
19 waste your time, Mr. Fahey.

20 So are you -- are you prepared to testify 12:56:51
21 about whether video content is stored, just the
22 fact of storage?

23 A. As I mentioned before, yeah, I can say
24 that video is stored. It -- it gets into --
25 the how is not my area of expertise. 12:57:09

HIGHLY CONFIDENTIAL

1 I interpreted topic b as the -- as being 12:57:16
2 related to topic a. So the systems related to the
3 counts. The systems related to the numbers and the
4 metrics that are produced. So that's what I
5 prepared for today. 12:57:29

6 Q. Got it.

7 Are you aware of any time during which
8 video content was capable of being uploaded to the
9 Facebook Platform where uploaded videos were not
10 stored? 12:57:49

11 A. I couldn't speak to that one way or the
12 other because that predates my time here.

13 Q. Okay. During your tenure at Facebook,
14 i.e., since 2014, are you aware of any time during
15 which videos uploaded to the Facebook Platform were
16 not stored? 12:58:09

17 A. My definition for upload implies storage.
18 So if the video was uploaded, it would have been
19 de facto stored.

20 Q. In other words, storage is inherently a 12:58:37
21 part of uploading, correct?

22 A. Correct, because if it was not -- if it
23 was a failed upload, it would not have been stored.

24 Q. Fabulous.

25 If video is live streamed and then saved 12:58:58

HIGHLY CONFIDENTIAL

1 to the Facebook Platform, that saving likewise

12:59:01

2 inherently involves storage, correct?

3 A. That saving process effectively is

4 another upload -- is another upload process, yes.

5 Q. So every time video content that has been

12:59:20

6 live streamed is saved to the Facebook Platform, it

7 is stored?

8 A. Not my area of expertise. And the reason

9 I'm equivocating here is because you said "every

10 time," and I would be speculating.

12:59:43



18 Q. Okay.

19 A. It's really -- it's really outside of

20 what I know.

01:00:15

21 Q. Okay. Are you prepared to -- to testify

22 about whether or not "comments" and "likes," or

23 other interactions with video content, whether that

24 is -- that data is stored?

25 A. Yes, that data is stored.

01:00:50

HIGHLY CONFIDENTIAL

1

[REDACTED]

[REDACTED]

3

which users watch a piece of video content?

4

A. Can you be more specific or provide an
example?

01:01:12

6

Q. Sure.

7

Suppose that ten Facebook users watch a
video one of their friends has uploaded, are the
names and user ID numbers of those watchers stored
somewhere on Facebook's systems as having watched

01:01:40

11

the video?

12

MR. SCHWING: The question is vague.

17

Q. (By Mr. Gould) I'm -- I'm -- no, I'm
talking about watching.

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HIGHLY CONFIDENTIAL

1

[REDACTED]

[REDACTED]

4

Q. Are the aggregate numbers of persons who

5

have watched a video stored by Facebook?

01:03:20

6

A. Say that again, please.

[REDACTED]

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23

24

MR. GOULD: Mr. Schwing, I think if we

24 take a quick two- or three-minute break, we will

25 probably be able to finish up very quickly

01:06:33

1 thereafter. 01:06:35

2 Okay?

3 MR. SCHWING: Okay. Why don't we take --

4 why don't we take a short break and we'll be back.

5 MR. GOULD: Thanks. 01:06:42

6 THE VIDEOGRAPHER: Okay. Off the record.

7 It's 1:06 p.m.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We're back on the

10 record. It's 1:19 p.m. 01:19:49

11 Q. (By Mr. Gould) We have talked about what

12 Facebook tracks on its platform, correct?

13 A. Correct.

14 Q. What I want to know is, you know, do you

15 know whether Facebook tracks access to video 01:20:10

16 content by third parties?

17 A. I don't.

18 MR. SCHWING: It's outside the scope.

19 Q. (By Mr. Gould) So tell me if this is a

20 fair understanding of -- of -- of what you have 01:20:30

21 been prepared to testify about today.

22 As I understand it, you prepared to

23 testify today, and are prepared to testify today,

24 about the metrics related to user access to video

25 content, correct? 01:20:55

1 A. That's topic 9a, correct, that you 01:21:00

2 just --

3 Q. Yeah. I mean -- yes, that's in -- in my
4 view, it's included in 9a.

5 But what I want to know is I -- I just 01:21:08

6 want to know what -- what -- putting aside,
7 you know -- the -- the notice of deposition, I just
8 want to know the answer to what you are and are not
9 prepared to testify about today. So let me just
10 reask the question. 01:21:22

11 You are prepared to testify today about
12 metrics related to user access to video content,
13 correct?

14 A. Metrics related to user access.

15 I'm prepared to -- to talk about metrics 01:21:40
16 related to video. You'd have to be more specific
17 when you say -- when you get into user access.

18 Q. By "user access," I mean user -- the
19 amount of time users have spent watching videos,
20 the numbers of users who have watched videos, the 01:22:03
21 interactions by viewers to -- to -- by users to --
22 to videos. That's the heading under which I would
23 put "user access."

24 Did -- so -- so that's what I mean by
25 "user access." 01:22:25

1 Is that -- is that fairly clear? 01:22:26

2 A. That is clear.

3 Q. Okay. So under that definition of user
4 access, you are testi- -- you are prepared to
5 testify about metrics related to user access, 01:22:33
6 correct -- to video content, correct?

7 A. I'm prepared to -- to speak about metrics
8 related to video content.

14 Q. Sure.

1 A. Correct. 01:24:01

2 Q. So I just -- I -- I just want to
3 understand. Okay.

4 We've talked about three things you're
5 prepared to testify about. 01:24:10

6 You're prepared to testify about
7 aggregated metrics related to user access to video
8 content.

9 You're prepared to testify about metrics
10 related to the aggregate amount of video content. 01:24:18

11 And you're prepared to testify about the
12 systems that are used to produce those metrics,
13 correct?

14 A. Yes.

15 Q. Is there anything else that you prepared
16 to testify about today? 01:24:31

17 A. No.

18 MR. GOULD: Okay. I think that does it,
19 except for --

20 Q. (By Mr. Gould) So during your testimony, 01:24:53
21 have you consulted with anybody about the substance
22 of your testimony?

23 A. No.

24 Q. And during this deposition, including
25 during breaks, has anyone communicated to you about 01:25:06

1 the substance of your testimony? 01:25:09

2 MR. SCHWING: Are you talking about other
3 than attorneys?

4 MR. GOULD: I'm -- I'm including 01:25:19
5 attorneys, yes.

6 MR. SCHWING: All right. Well, I'll
7 instruct the witness not divulge any
8 attorney-client privileged communications that may
9 or may not have happened.

10 But if you spoke with anybody else, you 01:25:29
11 can answer that question.

12 Q. (By Mr. Gould) Mr. Fahey, I'm not asking
13 about the substance of anyone -- anything anyone
14 may have said to you.

15 What I'm asking about is that -- is 01:25:38
16 during your deposition today has -- including
17 during breaks -- has anyone communicated to you
18 about the substance of your testimony?

19 MR. SCHWING: And the witness is not
20 going to reveal any communications or the nature of 01:25:50
21 any communications he had with attorneys. But if
22 he spoke with a nonattorney, you can ask that.

23 Q. (By Mr. Gould) Do you want me to reask
24 the question, Mr. Fahey?

25 I'm sorry. 01:26:14

1 SPECIAL MASTER GARRIE: Can I make a 01:26:17
2 suggestion?

3 MR. GOULD: Yeah, of course.

4 SPECIAL MASTER GARRIE: Well, Mr. Fahey,
5 do you have a question about privilege right now? 01:26:20

6 THE DEPONENT: I do.

9 We're going to go off the record.

10 Counsel Schwing, you're going to take five minutes 01:26:28
11 and explain to Mr. Fahey -- let's go off the
12 record. Strike what I just said. Let's just go
13 off the record, please.

14 THE VIDEOGRAPHER: Okay. We're off the
15 record. It's 1:26 p.m. 01:26:41

16 (Recess taken.)

17 THE VIDEOGRAPHER: We're back on the
18 record. It's 1:33 p.m.

19 MR. GOULD: I'll just reask the question
20 again just to make sure we all understand each
21 other.

22 Q. (By Mr. Gould) During this deposition,
23 including during breaks, has anyone communicated to
24 you about the content and substance of your
25 testimony? 01:33:31

1 A. No. 01:33:33

2 MR. GOULD: Thank you. That does it for
3 me. Appreciate it.

4 SPECIAL MASTER GARRIE: Counsel Schwing,
5 any redirect? 01:33:45

6 MR. SCHWING: No.

7 SPECIAL MASTER GARRIE: We will go -- oh,
8 do you want to designate this transcript?

9 MR. SCHWING: Yeah. We'll designate the
10 transcript as "Highly Confidential." 01:33:54

11 I think what we've been doing in the --
12 with other depositions is the witness, once we get
13 the transcript, will have 45 days to review it and
14 make any changes.

15 Is that acceptable? 01:34:09

16 SPECIAL MASTER GARRIE: So noted -- so
17 noted for the record.

18 Counsel Gould, you're finished, so I'll
19 leave it to the parties if, you want to let the
20 witness go, and we can -- 01:34:21

21 MR. GOULD: Since Mr. Fahey isn't
22 testifying about subtopics c or d, I think he can
23 go.

24 MR. SCHWING: Yeah.

25 SPECIAL MASTER GARRIE: Well, 01:34:40

HIGHLY CONFIDENTIAL

1 Mr. Fahey --

01:34:40

2 THE DEONENT: I can hang up.

3 MR. SCHWING: Yeah. Thank you,

4 Mr. Fahey.

5 SPECIAL MASTER GARRIE: We'll go off the

01:34:45

6 record.

7 THE VIDEOGRAPHER: Okay. We're off the

8 record. It's 1:34 p.m.

9 (TIME NOTED: 1:34 p.m.)

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HIGHLY CONFIDENTIAL

1 I, Rebecca L. Romano, a Registered
2 Professional Reporter, Certified Shorthand
3 Reporter, Certified Court Reporter, do hereby
4 certify:

5 That the foregoing proceedings were taken
6 before me remotely at the time and place herein set
7 forth; that any deponents in the foregoing
8 proceedings, prior to testifying, were administered
9 an oath; that a record of the proceedings was made
10 by me using machine shorthand which was thereafter
11 transcribed under my direction; that the foregoing
12 transcript is true record of the testimony given.

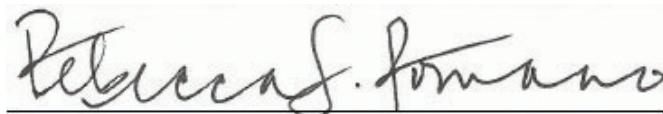
13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a Federal
15 Case, before completion of the proceedings, review
16 of the transcript [X] was [] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee
19 of any attorney or any party to this action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name this 26th day of July, 2022.

22

23



24

25

Rebecca L. Romano, RPR, CCR

CSR. No 12546

HIGHLY CONFIDENTIAL

1 RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION

2 MICHAEL FAHEY (JOB NO. 5300517)

3 E R R A T A S H E E T

4 PAGE 16 LINE 2 CHANGE "Shweta Metkar" to

5 "Shweta Medhekar"

6 REASON Typo

7 PAGE 16 LINE 2 CHANGE "Gee" to "Ji"

8

9 REASON Typo

10 PAGE 24 LINE 7 CHANGE [REDACTED]

11

12 REASON Misspoke

13 PAGE 29 LINE 21 CHANGE [REDACTED]

14

15 REASON Mistranscription

16 PAGE 30 LINE 9 CHANGE [REDACTED]

17

18 REASON Misspoke

19 PAGE 70 LINE 22-24 CHANGE [REDACTED]

20

21 REASON Mistranscription (deponent's [REDACTED] is audible in
22 the deposition video)

23

Michael Fahey

09-sep-22 | 21:00 PDT

24

MICHAEL FAHEY

Date

25

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HIGHLY CONFIDENTIAL

1 RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION

2 MICHAEL FAHEY (JOB NO. 5300517)

3 E R R A T A S H E E T

4 PAGE 70 LINE 22-24 CHANGE [REDACTED]

5 [REDACTED] -----

6 REASON Mistranscription7 PAGE 86 LINE 8 CHANGE [REDACTED]

8 [REDACTED] -----

9 REASON Mistranscription

10 PAGE _____ LINE _____ CHANGE _____

11 -----

12 REASON _____

13 PAGE _____ LINE _____ CHANGE _____

14 -----

15 REASON _____

16 PAGE _____ LINE _____ CHANGE _____

17 -----

18 REASON _____

19 PAGE _____ LINE _____ CHANGE _____

20 -----

21 REASON _____

22 _____ Michael Fahey _____ 09-Sep-22 | 21:00 PDT

23 _____ Date

24 MICHAEL FAHEY

25

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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